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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,350	12/12/2003	Linwood Register	11897.11	3742
21999 7590 07/15/2010 KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111				
EXAMINER				
BOVEJA, NAMRATA				
ART UNIT		PAPER NUMBER		
3622				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/735,350

Applicant(s)

REGISTER ET AL.

Examiner

NAMRATA BOVEJA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/29/10.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/12/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the communication filed on 03/29/2010.
2. Claims 1-11 are presented for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-11 are rejected under 102(e) as being anticipated by Hall et al. (Patent Number 7,107,231) hereinafter Hall.

In reference to claim 1, Hall teaches an enterprise media distribution system comprising: a central server system, located at a service provider, comprising one or more central servers (col. 3 lines 43 to col. 4 lines 60, col. 13 lines 6 to col. 14 lines 18 and Figures 1, 2, 4, 9A, and 9B); a chain network system, in communication with the at least one chain server by way of a computer network configuration facilitating the exchange of information between the chain network system and the central server system (col. 8 lines 46-65); a client server system, wherein the client server system is connected to the communications network (col. 3 lines 54 to col. 4 lines 5, col. 4 lines 61-67, col. 6 lines 28-57, and Figures 1, 2, and 4), comprising a local advertising data layer located at a store geographically separated from the central server system, and

geographically separated from the chain network system, for use in providing a broadcast (col. 4 lines 61 to col. 5 lines 21 and col. 8 lines 9-25), wherein said client server system is in communication through said computer network configuration with the chain network system (col. 3 lines 54 to col. 4 lines 5, col. 4 lines 61-67, col. 6 lines 28-57, and Figures 1, 2, and 4); at least one client player device placed at each of the store locations, each of the client player devices being independently supported and in communication with an internal audio/visual system installed in the facility at a respective store location, wherein said client server system is in communication through a computer network configuration with the client server system facilitating the exchange of information between the client player devices and the central server system (col. 1 lines 65 to col. 2 lines 3, col. 4 lines 17-38 and lines 61 to col. 5 lines 21, and Figures 1, 3, 4, 9A, and 9B); an independent media broadcast customizable by a business operator or advertiser supported on each of the client server systems and comprising at least one of an audio, a visual, and informational media content thereon that may be specific each of the particular store locations in which the at least one client player device is located (col. 4 lines 17-60, col. 7 lines 4-61, col. 8 lines 9-25, and col. 17 lines 50-54); and an interface layer that allows the client server system to selectively interact with a data layer at the central server system to allow each local store to actively modify the data layer, located at the service provider, to create a unique audio program consisting of customized music and customized general advertising, and wherein the data layer is customized by the interface at each local store, such that control over the audio program is experienced locally at the client server system, disseminated remotely

from the central server system, and introduced into a store by the at least one client player device (col. 1 lines 65 to col. 2 lines 3, col. 4 lines 17-38 and lines 61 to col. 5 lines 21, col. 8 lines 9-25, and col. 17 lines 50-54, and Figures 1, 3, 4, 9A, and 9B).

4. In reference to claim 2, Hall teaches the enterprise media distribution system wherein said customizable media broadcast comprises media selected from the group consisting of, audio data, video data fed to video screens located at a business location, advertisements, announcements, and other informational content (col. 5 lines 4-46, col. 6 lines 1-27, and col. 7 lines 4 to col. 8 lines 45).

5. In reference to claims 3 and 10, Hall teaches the enterprise media distribution system of wherein said chain server comprises an updating server (col. 5 lines 63 to col. 6 lines 27, col. 8 lines 46 to col. 9 lines 7, and col. 12 lines 16-19 and 44-50).

6. In reference to claims 4 and 11, Hall teaches the enterprise media distribution system of wherein said chain server comprises a caching server (i.e. local server stores content) (col. 3 lines 54 to col. 4 lines 5, col. 4 lines 61 to col. 5 lines 21, col. 9 lines 30-61) .

7. In reference to claim 5, Hall teaches an in-store media broadcasting system comprising: a central server having a data layer (col. 3 lines 43 to col. 4 lines 60, col. 13 lines 6 to col. 14 lines 18 and Figures 1, 2, 4, 9A, and 9B); a chain server having a data layer (col. 4 lines 61 to col. 5 lines 21 and col. 8 lines 9-25), wherein the chain server is connected to the central server via a computer network (col. 8 lines 46-65); a client player device having a presentation layer for use in providing and controlling a customizable media broadcast, the client player device in communication with the chain

server (col. 1 lines 65 to col. 2 lines 3, col. 4 lines 17-38 and lines 61 to col. 5 lines 21, and Figures 1, 3, 4, 9A, and 9B); and an interface layer that selectively interacts with the data layer and the presentation layer, wherein control over the broadcast is experienced locally at the client player device (i.e. touch screen) (col. 5 lines 22-46), wherein said broadcast is customizable by a business operator or advertiser (col. 8 lines 9-25 and col. 17 lines 50-54).

8. In reference to claim 6, Hall teaches a method for establishing an enterprise media distribution system for broadcasting media at one or more business locations existing within a business chain, said method comprising: equipping a business chain with at least one chain server operable within a chain server system (i.e. providing a local server at a business) (col. 3 lines 54 to col. 4 lines 5, col. 4 lines 61 to col. 5 lines 21), said chain server operated and managed by business chain personnel (col. 8 lines 9-15 and col. 17 lines 31-54); connecting, via a computer network, said chain server to a central server system comprising at least one central server to facilitate the exchange of information between the chain server and the central server, said central server comprising broadcast data retrievable by said chain server (col. 3 lines 54 to col. 4 lines 5, col. 4 lines 61-67, col. 6 lines 28-57, and Figures 1, 2, and 4); connecting one or more client player devices located at respective remote business chain locations to said chain server system via a computer network to facilitate the exchange of broadcast and broadcast-related data between said chain server and said client player devices (col. 1 lines 65 to col. 2 lines 3, col. 4 lines 17-38 and lines 61 to col. 5 lines 21, and Figures 1, 3, 4, 9A, and 9B); causing each of said client player devices to communicate with the

chain server to exchange broadcast and broadcast-related data, said client player devices capable of running independent, in-store media broadcasts (col. 1 lines 65 to col. 2 lines 3, col. 4 lines 17-38 and lines 61 to col. 5 lines 21, and Figures 1, 3, 4, 9A, and 9B) customizable by a business operator or advertiser (col. 8 lines 9-25 and col. 17 lines 50-54).

9. In reference to claim 7, Hall teaches the method wherein said chain server system comprises a local area network or business Intranet (i.e. the client player devices are wirelessly connected to the local office server or to a master fuel dispenser) (col. 2 lines 61-67, col. 3 lines 54-65, col. 4 lines 53-60, col. 5 lines 63 to col. 6 lines 27, and col. 14 lines 19-56).

10. In reference to claim 8, Hall teaches the method, wherein said customizable in-store media broadcast is controlled substantially by said chain server (col. 2 lines 61 to col. 3 lines 18, col. 5 lines 63 to col. 6 lines 27, and col. 17 lines 31-50).

12. In reference to claim 9, Hall teaches the method wherein said customizable in-store media broadcast is controlled substantially by said client player device (col. 5 lines 22-46).

Response to Arguments

11. After careful review of Applicant's remarks/arguments filed on 03/29/2010, the examiner fully considered the arguments, but they are not persuasive.

12. Applicant argues that Hall does not describe a system that allows each local store to create a unique audio program consisting of customized music and customized general advertising by actually modifying the centrally stored data layer through an

interface at each local store, such that control over the audio program is experienced locally at the client server system, disseminated remotely from the central server system, and introduced into a store by the at least one client player device. Applicant further argues that the Hall disclosure fails to read on the concept of local control over a centrally stored data layer, dissemination from the central server, and display at individual client player devices. The Examiner respectfully disagrees with the Applicant, since Hall teaches the concept of local control over a centrally stored data layer, dissemination from the central server, and display at individual client player devices and a system that allows each local store to create a unique audio program consisting of customized music and customized general advertising by actually modifying the centrally stored data layer through an interface at each local store, such that control over the audio program is experienced locally at the client server system, disseminated remotely from the central server system, and introduced into a store by the at least one client player device (col. 5 lines 227-62, col. 8 lines 9-45, col. 12 lines 23-27, and col. 17 lines 50-54). Specifically, when the customer is able to modify the content at the store pump, this is also local control over central programming, even though the customer is one the one who might be providing an input in this particular embodiment, since the information presented to the customer will vary for each store based on what that particular customer at that store is inputting at the pump. Additionally, the CPU can be programmed to slow down or speed up the pumping of gas to complete the display of advertisements. Also, certain commercials can be controlled by the central office, and certain can be controlled locally which can also be posted according to real-time

activities by the customer. For example, if the customer is purchasing a high-grade fuel (more expensive), the fuel dispenser can react to this and alter the programming for advertising more expensive products. This feature can also be based upon what the customer purchases at the point-of-sale location, and also by the type of payment method. For example, if the customer pays for fuel using a "platinum" credit card, programming can be immediately altered to reflect advertising directed to more expensive products. Furthermore, it is also possible to download the update and advertising information to all local office systems, and let the local offices pass the information to the fuel dispenser systems. In this case, personnel at the local office may insert or modify the advertising to suit the location and clientele it services. Also, personnel on duty at the time of any announcements normally broadcast over television or radio could also enable a switch which would trigger input of such announcement into the site master for immediate presentation to customers, and this reads on the concept of local control over centrally stored data as well, since the updates are coming from the central server, but the local personnel have the control to allow this updated information to be presented to the users by enabling a switch.

13. Applicant also argues that Hall fails to disclose a system comprising a plurality of business chains each comprising a plurality of facilities at respective business locations, since it does not disclose a complex structure of the central server system being connected to a chain network system. The Examiner respectfully disagrees with the Applicant and would like to point the Applicant to col. 8 lines 46 to col. 9 lines 7, where Hall discloses that the central office transmits information to many locations or

sometimes to just a specific fuel dispensing location (i.e. a local office). For example, geography could be a factor in transmitting the file to a specific number of fuel dispensing locations only in a specific geographic area. Also, daily updates and product information is transmitted to one or more fuel dispenser systems or locations for storage on the respective fuel dispenser storage devices. So, clearly Hall discloses not just sending information to just a single gas station but rather to a chain of gas stations from the central server, and therefore it disclosed the complex structure of the central server system being connected to a chain network system argued by the Applicant.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The FAX number for the organization where this application or proceeding is assigned is 571-**273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).

/NAMRATA BOVEJA/

Primary Examiner, Art Unit 3622